

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 JOHN DOES, et al.,

11 Plaintiffs,

12 v.

13 DONALD TRUMP, et al.,

14 Defendants.

CASE NO. C17-0178JLR

ORDER DENYING MOTION
TO STAY

(RELATING TO BOTH CASES)

15 JEWISH FAMILY SERVICES, et
16 al.,

17 Plaintiffs,

18 v.

19 DONALD TRUMP, et al.,

20 Defendants.

CASE NO C17-1707JLR

21 Before the court is Defendants' motion for a stay of all proceedings because on
22 December 21, 2018, the appropriations act that had been funding the Department of
Justice ("DOJ") expired. (Mot. (Dkt. # 172).) Plaintiffs in both of the consolidated cases

1 oppose the motion. (Resp. (Dkt # 173).) Defendants did not file a reply. (*See generally*
2 Dkt.) The court has considered the motion, Plaintiffs' response, other relevant portions
3 of the record, and the applicable law. Being fully advised,¹ the court DENIES
4 Defendants' motion for a stay as MOOT.

5 On December 20, 2018, the court ordered the parties to engage in supplemental
6 jurisdictional discovery. (12/20/18 Order (Dkt. # 171).) On December 21, 2018, the
7 appropriations act, which provided DOJ's funding, lapsed. (*See* Mot. at 2.) Defendants'
8 motion suggests that good cause under Federal Rule of Civil Procedure 16(b)(4) exists to
9 extend Defendants' February 3, 2019, deadline to produce supplemental discovery
10 because Defendants are "prohibited from working on this matter" by the Antideficiency
11 Act, 31 U.S.C. § 1342. (Mot. at 2.) As discussed below, the court disagrees.

12 The Antideficiency Act prohibition does not apply to "emergencies involving the
13 safety of human life or the protection of property." 31 U.S.C. § 1342. That standard is
14 met when there is "some reasonable and articulable connection between the function to
15 be performed and the safety of human life or the protection of property" and "some
16 reasonable likelihood that the safety of human life or the protection of the property would
17 be compromised, in some degree, by delay in the performance of the function in
18 questions." 43 Op. Att'y Gen. 293, 302 (Jan. 16, 1981). By definition, refugees awaiting
19 resettlement through the United States Refugee Admission Program ("USRAP") have

21 ¹ No party requests oral argument (*see generally* Mot.; Resp.), and the court has
22 determined that oral argument would not be of assistance in deciding the motion, *see* Local Rules
W.D. Wash. LCR 7(b)(4).

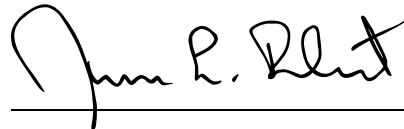
1 | been determined by the United States government to be at risk of persecution because of
2 | a protected characteristic (race, religion, nationality, membership in a particular social
3 | group, or political opinion). *See* 8 U.S.C. § 1101(a)(42) (defining a “refugee”). On
4 | December 23, 2017, the court preliminary enjoined Defendants’ suspension of the
5 | processing of certain categories of refugees and the admission of those refugees into the
6 | United States. (*See* 12/23/17 Order (Dkt. # 92).) The jurisdictional discovery that
7 | remains at issue involves Defendants’ compliance with that preliminary injunction. (*See*
8 | 7/27/18 Order (Dkt. # 155).) Thus, the court concludes that the Antideficiency Act does
9 | not bar DOJ or other federal government agencies from continuing to work on these
10 | consolidated cases because there is a “reasonable and articulable connection” between the
11 | resolution of these consolidated cases and the safety of the refugees at issue and “some
12 | reasonable likelihood” that the safety of those refugees would be compromised by a
13 | continued delay in these consolidated cases. *See* 43 Op. Att’y Gen. at 302.

14 | Nevertheless, on Friday, January 25, 2019, President Donald Trump signed into
15 | law House Joint Resolution 28, the “Further Additional Continuing Appropriations Act,
16 | 2019,” which includes a short-term continuing resolution that provides fiscal year 2019
17 | appropriations through February 15, 2019. Thus, the federal government has restored the
18 | lapsed funding upon which Defendants’ motion was premised. (*See* Mot. at 2.)
19 | Accordingly, Defendants’ motion for a stay based on a lapse in funding is now moot, and
20 | the court denies it on that basis.

21 | Notwithstanding the court’s ruling, the court recognizes that Defendants may have
22 | experienced disruptions as a result of the lapse of federal funding. Accordingly, the court

1 ORDERS the parties to meet and confer by telephone no later than Thursday, January 31,
2 2019, to discuss any necessary, short adjustments to the current discovery schedule. The
3 court further ORDERS the parties to file a stipulation and proposed order concerning any
4 such necessary, short adjustments to the current discovery schedule. If the parties are
5 unable to reach an agreement, the court ORDERS the parties to file separate proposals no
6 later than January 31, 2019, limited to no more than three pages, respectively.

7 Dated this 31st day of January, 2019.

8
9 

10 JAMES L. ROBART
11 United States District Judge
12
13
14
15
16
17
18
19
20
21
22